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ABSTRACT

Every child who enters the doors of the nation's school system deserves an education, including children with AIDS. Parents of AIDS-free children fear that the AIDS-infected child in the classroom threatens the health and safety of the general school community. But according to the U.S. Department of Health and Human Services, casual contact with AIDS patients does not place others at risk of contracting the illness. A child with AIDS is considered handicapped and thus is entitled to all the legal rights that a handicapped student possesses. These rights include the right to receive a free and appropriate education with the same variety of programs and services that children without handicaps enjoy and placement in the least restrictive environment with nonhandicapped children (mainstreamed) whenever possible. According to the legal community, educators are in direct conflict with the nation's laws if they refuse to educate the AIDS afflicted child; therefore, teachers must comply. If educating, learning, and teaching the whole child--all children--is an educator's goal, then let educators take the initiative and accept the challenge. (14 references) (KM)

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AIDS and Education - Why? Why Not?

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ISSUE

AIDS patients - a threat to school communities, or victims with rights? This is the core of a growing national, if not global concern. Parents of students who do not have AIDS fear that those students with AIDS will endanger their children. Parents of AIDS children know that their children deserve rights of privacy, to attend school, to associate with others and to travel (Flygare, 467). Teachers and administrators, caught in the middle, know that there is a validity to the arguments of both groups.

The issue is that of the school-aged child with Acquired Immune Deficiency (AIDS): educational rights, protection of both AIDS victims and non-AIDS afflicted populations, and all people's rights. These are tangled in an emotional maelstrom which must be resolved.

According the Center for Disease Control, Department of Health and Human Services, as of April 30, 1985, 113 children were identified as AIDS victims. Of all children reported as having AIDS, sixty-nine percent have died. Another statistic is that the number of national cases continues to rise. According to some pediatric experts, by the mid 1990's, thousands of children may have AIDS (Jones, 195).

An article of the June 22, 1989, issue of the Houston Post tells of a new test, PCR-polymerase chain reaction, which will more quickly identify AIDS in babies. Infants identified as having AIDS can be treated early with AZT, the only approved

AIDS drug. This treatment can temporarily reverse some of the most severe symptoms of AIDS when given to afflicted babies early. With the use of PCR, it is believed that AIDS babies, treated with AZT before they get sick, will have a greatly delayed appearance of the AIDS virus and its debilitating and ravaging effects. These children will then, in all probability, be able to reach school age, ready to enter the world of education.

POINTS OF VIEW

There are those members of communities who wonder why AIDS children should be allowed to enter the public school. Why should known victims of an untreatable, deadly disease be allowed to endanger the rest of a public school? What legal rights does the general public have against the AIDS virus and the AIDS student in the school?

These people are adamant and hostile in their views of the AIDS child in school. One family, whose hemophiliac sons had developed AIDS through tainted blood transfusions, eventually was burned out of a community. What about these parents' rights? Should they consider that their children should receive a public education? And, what rights do the parents of non-AIDS children have?

Parents of AIDS-free children have a serious concern for the health and safety of their young people. Their fear is that the AIDS child in the classroom threatens the health and safety of the general school community.

The Public Health Services of the United States Departmentof Health and Human Services fact sheet on AIDS was issued in August of 1985. According to this fact sheet: "Casual contact with AIDS patients or persons who might be at risk for the illness does not place others at risk of getting the illness. No cases have been found where AIDS has been transmitted by casual household contact with AIDS patients or persons at higher risk for getting the illness." Thus, unless an AIDS patient is physically unable to attend school, is uncontrollable as a biter, lacks the ability to control bodily functions, has uncontrolled bleeding, or has open lesions, school officials do not have much choice on whether or not that student should attend school (Jones, 205).

There are several legal bases for allowing the AIDS student to attend school. Both Section 504 of the Rehabilitation Act of 1973 (20 USC 794) and the Education for All Handicapped Students Act of 1975 (20 USC 1401) address handicapped individuals. Section 504 states that: "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

The Education for All Handicapped Children Act of 1975 (EHA) says that: "States receiving federal financial assistance must identify handicapped children and provide a 'free

appropriate public education which emphasizes special education and related services designated to meet their unique needs.' Parents must be involved in helping school authorities develop an 'individualized educational program' (IEP) for each student. 'Related services' include 'developmental, corrective, and other supportive services * * * as may be required to assist a handicapped child to benefit from special education * * *.' Extensive 'procedural safeguards' are afforded parents" (Reutter, 906).

Among provisions included in the Education to All Handicapped Children Act (EHA) is that of mainstreaming. Mainstreaming is the requirement that handicapped children be educated, whenever possible, within the regular educational system. That is, handicapped children should be educated with nonhandicapped children, whenever appropriate.

According to the EHA, handicapped children have twelve specified rights. Especially applicable to the AIDS student are the following:

1) A free and appropriate education if they are between the ages of 3 and 18 by September 1, 1978, and 3 and 21 by September 1980.

2) The same variety of programs and services that children without handicaps enjoy, including nonacademic subjects and extracurricular activities.

3) Placement in the least restrictive environment as much as possible with non-handicapped children and whenever possible

at the same school they would attend if not handicapped.

4) Privacy and confidentiality of all personal records.

The burden of proof that a district is not discriminating against the handicapped child rests with the school district. The state must show a rational relationship between what it is doing and the state's interest in seeing that every citizen receives all the schooling he or she can profit from (Nolte, 168).

What relevance does handicapped child information have to do with the AIDS child? Of particular interest to this question is the case of Arline v. The School Board of Nassau County. This case went through the court system to the Supreme Court. Arline was a school teacher who was discharged from school employment because of active tuberculosis. She claimed that she was covered by Section 504 of the Rehabilitation Act, and that she was terminated in violation of 504. The school district claimed that Arline was fired not because she was handicapped but because she had a contagious disease.

The Supreme Court noted that 504 defines 'handicapped' to mean one who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment (Policies and Procedures, 3-8). The Supreme Court decided that Arline had a physical impairment and a contagious disease simultaneously.

The assumption is being made, on multi-levels of legal

interpretation and considerations, that a person with AIDS is considered handicapped under 504 because that person is "regarded as having such an impairment"(Policies and Procedures, 6). In Texas, House Bill 1829 amends portions of the state's Communicable Disease Prevention and Control Act. Specifically, HB 1829 makes release of or knowledge of a test result, except in narrow described circumstances, a violation. This makes teachers vulnerable, and especially those teachers in early childhood classrooms.

PERSONAL POSITION

The end result of all of this legislation is why? Why we must and so we do educate the AIDS student. Ideally, we as educators are blind to anything but the mind of that child we are challenged to educate. Realistically, we know that this is not a general and factual statement.

The starting place to bring the idealistic and the realistic together is education; not just of educators and administrators, but of the general population. In order for education to continue in a logical, reasonable manner, all citizens needs to be informed. What we don't know is always the most feared. AIDS is a fearsome subject. Researchers in the medical arena tell us that AIDS is not communicated in normal, social situations. They tell us to be careful about intimate sexual contact, sharing needles, and avoiding contacting body fluids of others. These are the known dangers. Exactly how this contagious disease is communicated is still uncertain. How

to treat and eradicate it are also unknown.

Like every other human being who does not have AIDS, I fear it and I absolutely do not want to contract it. None-the-less, I accept the challenge to go to the classroom and teach each and every child who enters my room. The very essence of what is my country, the United States of America, is threatened by attitudes on this feared disease.

I like the Seattle-King County, Washington, Department of Public Health. This group of people makes a clear statement in a booklet entitled "Day Care Infection Protocol." The booklet is really a manual of technical guidance for the prevention and control of communicable diseases. In this practical, professional booklet there is a list of communicable diseases. First on the list, which includes chicken pox, measles, ring worm, and scarlet fever, is AIDS. I believe that this straightforward, no-nonsense approach is realistic and honest, in preparing these people who work with children.

We are in the education business, state law legislates how we educate, and what we use to educate. It is sad that courts have to decide the 'who' in education. This is a country based on freedom, and taking in the huddled masses. Instead of hiding our heads in the sand over the AIDS issue, we need to hold our heads high, as truly outstanding educators, and teach each and every child who enters our doors.

If, as the legal community believes, we are in direct conflict of national law if we refuse to educate the AIDS

afflicted child, we must comply. If parents who endanger others in their fear of sending their own child to school with an AIDS child are breaking the law, violating national educational acts when they interfere with the process of education, they must be educated to stop these actions. If educating, learning, and teaching the whole child, all children, is our goal, then let us do it. Pride in our schools needs to be; let's show pride, strength, and the initiative to accept the challenge to do the right thing right.

Bibliography

"AAICC: Recommendations for Management of HIV Infection and Acquired Immunodeficiency Syndrome, Texas Preventable Disease News, Vol. 48, No.1, March 12, 1988. Bureau of Disease Control and Epidemiology, Austin, Texas.

AIDS and the Education of Our Children:A Guide for Parents and Teachers. U.S. Department of Education, Atlanta, Georgia, January 1988.

"AIDS:100 Common Questions & Answers." Michigan Department of Public Health." The Department, January 1878.

Arline v. The School Board of Nassau County, Florida(1987).

Bender, Nora Shepard. "AIDS in the Classroom." ATPE News, May/June 1988, p.11-14.

"Day Care Infection Protocol." Seattle-King County Dept.of Public Health, Seattle, Washington, 1987.

Emmons, David Lockwood, Esq. Thompson and Knight Law Firm, Dallas, Texas.

Flygare, Thomas J. "Are Victims of AIDS 'Handicapped' Under Federal Law?" Phi Delta Kappan, p.466-67, Feb. 1986.

Jones, Nancy Lee. "The Education for All Handicapped Children Act:Coverage of Children with Acquired Immune Deficiency Syndrome (AIDS)." Journal of Law and Education, p.195-206, Spring 1986.

Nolte, M. Chester. Nolte's School Law Desk Book. West Nyack, N.Y.:Parker Publishing Co., 1980.

Policies and Procedures for the Management of Students and Employees with HIV Infection. Conroe Independent School District, Conroe, Texas, 1988.

Reutter, E. Edmund, Jr. Ph.D. The Law of Public Education. Mineola, N.Y.:The Foundation Press, 1980.

Splitt, David A. "School Law." Executive Educator, Vol.8, No.3, p.12, Mar, 1986.

Thomas, Stephen B. "Health Related Legal Issues in Education." National Organization on Legal Problems of Education, Topeka, Kansas.